



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 7, 1996

Ms. Roxann Pais
Assistant City Attorney
City of Dallas Municipal Building
Dallas, Texas 75201

OR96-1834

Dear Ms. Pais:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101332.

The City of Dallas (the "city") received a request for information concerning an arrest. You assert that the information at issue is excepted from disclosure pursuant to section 552.103 of the Government Code.

To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have demonstrated that litigation is reasonably anticipated and our review of the documents shows that they are related to the pending litigation.

However, our review of the documents submitted to this office indicates that part of the information at issue is front page arrest report information. In Open Records Decision No. 597 (1991) at 3, this office stated:

Soon after a suspect is arrested, he is to be brought before a magistrate who must inform him of the nature of the charge against him, and the magistrate must inform him of affidavits filed in regard to the charge. Also, an indictment must be sufficient to give notice of then particular charges against a defendant. In this case, there is no information in the basic offense report that would not have been made known to the defendants either by a magistrate or in an indictment. Because (section 552.103) does not allow a governmental body to withhold the information that has already been made available to the other

party in litigation, the basic information in the offense report must be made available to the requestor. (Citations omitted).

Open Records Decision No. 597 (1991) is applicable to the documents at issue. Thus, you must provide the requestor with the information that constitutes front page arrest report information.

The remaining information that is at issue may be withheld from disclosure pursuant to section 552.103(a). We note that in making this determination, we assume the other information at issue has not already been seen by the defendant. *See* Open Records Decision Nos. 349 (1982), 320 (1982). Information already disclosed to the defendant must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 101332

Enclosures: Submitted documents

cc: Ms. Mae White
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(w/o enclosures)